IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3197 of 2007
Date of Decision: 9.5.2007

Biswajit Saha and others

Petitioners

versus

Dr.B.R.Ambedkar National Institute of Technology (Deemed University) and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri M.L.Sarin, Sr.Advocate with
Shri Hemant Sarin, Advocate for the petitioners
Shri Anupam Gupta, Advocate for the respondents

Jasbir Singh, J. (Oral)

Petitioners, by filing this writ petition, have prayed that order Annexure P/3 dated 20/21-10-2005, vide which, they were ordered to be expelled from Dr.B.R.Ambedkar National Institute of Technology (Deemed University) - respondent No.1 (in short, NIT) be quashed. Vide that order, one more student, namely, Rahul Buragohain was also suspended from the above-said institution. They have also challenged the subsequent order Annexure P/10 dated 27.8.2006, vide which, their prayer, to recall the earlier order, was rejected by respondent No.2.

Brief facts are that on the intervening night of 11-10-2005, one student of B.Tech. Ist Year course, namely, Amit Kumar Gangwal committed suicide by jumping before a train. He left a suicide note, which was recovered subsequent thereto. FIR Annexure P/1 was recorded at the instance of father of the deceased, wherein name of Rahul Buragohain was mentioned as an accused. It was further stated that Amit Kumar Gangwar had committed suicide on account of harassment meted out to him by the

2nd, 3rd and 4th year students. During investigation, suicide note was recovered, in which names of the petitioners figured. They were joined as accused, arrested and subsequently released on bail. Criminal proceedings have been launched against them. Trial is pending before the competent Court and as per information supplied, charge has also been framed against them.

It is not in dispute that vide order Annexure P/4, suspension order passed against Rahul Buragohain was revoked and he was allowed to continue his study. The petitioners also made a representation to revoke their expulsion but the same was rejected vide order Annexure P/10. It is necessary to mention here that before passing order Annexure P/10, NIT Jalandhar constituted a Committee, to look into grievance of the petitioners and make recommendations as to whether they can be taken back in the Institute or not. The Committee, in its report, noticed the following facts with regard to the petitioners:-

> *"The Committee has undergone the above documents minutely and after thorough discussion and analysis observed the following:*
>
> *(i) Four out of five final year students have got placement in good companies.*
>
> *(ii) Most of them are having satisfactory academic records.*
>
> *(iii) All the ten students have already lost one Semester.*
>
> *(iv) The matter is subjudice and Court proceeding may take longer time."*

By taking note of above-said facts, the Committee recommended that the expulsion of the petitioners be withdrawn and they be allowed to complete their academic studies on the terms and conditions as mentioned below:-

> *"(a) The students alongwith their parents must submit an undertaking to the institute on judicial stamp paper that their work and conduct during the period of completion of academic requirements will be excellent and as per norms of the institute.*
>
> *(b) They will be available for any investigation by the Institute/ Police/ Court or any other agency.*
>
> *(c) The Institute administration will keep a strict vigil on them during this period.*
>
> *(d) Since the outcome of the decision of the Hon'ble Court would be binding on the candidates and Institute, in the event of a Court decision against the candidates, all the academic achievement of the candidates during this period may be declared null and void by the Institute. Neither the students nor the parents will have any objection to this decision of the Institute and an undertaking on judicial stamps, in this regard, should be taken from the parents and students.*
>
> *(e) The Institute may review its decision any time during this period or on the final outcome of the decision of the Hon'ble Court.*
>
> *(f) These students should not be permitted to stay in the Hostel."*

Recommendations made by the Committee were rejected vide order Annexure P/10.

After hearing counsel for the parties, we feel that no doubt, the petitioners are involved in a very serious matter, however, keeping in view their young age, they deserve leniency at this stage because of the fact that they have already lost two precious years of their life and now they can attend only classes for the next semester, going to commence in the month of July/ August, 2007. They have sufficiently been punished during this period. They were arrested, remained in jail and subsequent thereto, they were released on bail and at present they are facing criminal trial. What happens ultimately in that trial, depends upon the evidence, as may be led by the parties, however, it is certain that the trial will take some time before it is finally heard and concluded. If the petitioners are convicted in that trial, they may face the consequences. As per Policy of the State Government, even the convicts are permitted to take up their studies, if they are eligible and competent to do so. Programmes are being been initiated and chalked out to impart training to convicts in jails. If that is so, we feel that in view of peculiar facts and circumstances of this case, the petitioners, at this stage, can be permitted to join the course afresh, as per their eligibility, in the next academic Session. The conditions, mentioned by the Committee, in its report dated 20.1.2006 at serial Nos. (a) to (c) and (f) shall be applicable to the petitioners. We feel that it will be very harsh to the petitioners, if they are asked to comply with condition (d), as laid down by the Committee. So far as their criminal liability, if any, is concerned, that is altogether different from their academic achievements, which they will acquire during the intervening period till their criminal trial is concluded.

In view of facts mentioned above, expulsion of the petitioners is set aside prospectively i.e. for the future and the respondents are directed to allow them to attend classes in the next Session, as regular students, subject to their complying with the conditions, as mentioned above.

Copy of the order be given *dasti* on payment of usual charges.

(Jasbir Singh)
Judge

May 09, 2007 **(Nirmal Yadav)**
gk **Judge**